

MEMORANDUM

TO: District of Columbia Zoning Commission
FROM: *JL for* Jennifer Steingasser, Deputy Director Development Review & Historic Preservation
DATE: September 1, 2017
SUBJECT: Extension Request for PUD Case 10-26D to extend approval for two-years; and a Waiver Request from Z § 705.5 to permit a third extension for a period of two years

Address	3321-3335 Georgia Avenue, N.W.
Applicant	ZGZP 3333, LLC
Legal Description	Square 3040, Lot 130
Ward, ANC	Ward 1, ANC 1A
Project Summary	Eight-story residential building with ground floor retail land below-grade
Order Effective Date	September 2, 2011, Order 10-26
First Extension	November 8, 2013, Order 10-26B
Second Extension	October 16, 2015, Order 10-26C
Order Expiration Date	September 2, 2017 for the filing of building permits; September 2, 2018 for construction to begin
Recommendation	Approve extension with building construction to begin no later than September 2, 2020. OP recommends the Commission approve the waiver request. The applicant has agreed that the building will comply with Green Construction Code and International Energy Conservation Code requirements (see discussion on page 3).



Google, August 2014



Google, December 2016

I. EVALUATION OF EXTENSION REQUEST

Z, § 705.1

An extension of a PUD is allowed for “good cause” shown upon the filing of a written request by the applicant before the expiration of the approval, provided the Zoning Commission determines that the following requirements are met:

- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond.**

The application includes a certificate of service dated July 31, 2017, indicating the request was served on all parties.

- (b) There is no substantial change in any of the material facts upon which the Zoning Commission based its original approval of the planned unit development that would undermine the Commission's justification for approving the original PUD.**

Zoning Regulations

The PUD and first two extensions were approved under ZR58. This request is being reviewed under ZR16, although the criteria under which an extension request is reviewed did not change. However, the permitted number of time extension requests is now limited. Under Z § 705.5, Time Extensions, no more than two extensions may be requested for a PUD, and the second extension may only be approved for one year. Therefore, the applicant requested a waiver from Z 705.5, to permit a third extension for a period of two years.

Comprehensive Plan

There has been no substantial change to the Comprehensive Plan since the project's approval that would affect the material facts upon which the project was approved.

Surrounding Development

Since the granting of the last extension the Zoning Commission approved two PUDs for the reconstruction of Park Morton public housing complex (16-11, Bruce Monroe and 16-12, Park Morton, effective May 5, 2017). Redevelopment of Park Morton was anticipated at the time of the original approval of this PUD and the approval of those PUDs does not affect the material facts upon which this project was approved.

The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in Subtitle Y, § 705.2 (c)

One or more of the following criteria must be met:

- (1) An inability to obtain sufficient project financing for the planned unit development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;*
- (2) An inability to secure all required governmental agency approvals for a planned unit development by the expiration date of the planned unit development order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or*
- (3) The existence of pending litigation or such other condition, circumstance or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the planned unit development order.*

The property had previously been developed as a gasoline service station with underground fuel storage tanks that subsequently leaked. Although the tanks were removed in the fall of 2016 the site remains environmentally contaminated. The applicant has been unable to

obtain construction permits due to ongoing testing and remediation measures in coordination with DOEE, which the applicant anticipates will be complete within two years.

II. EVALUATION OF TIME EXTENSION REQUEST

This PUD was originally approved in 2011 and was granted two two-year extensions, for a total of four years. Should the Commission approve this request it would increase the number of extensions to three, for a total of six years. Therefore, the applicant requests a waiver to permit a third extension for a period of two years.

This extension is necessitated by the environmental contamination of the property and the applicant's contractor has been working with DOEE on remediation measures, which OP supports. However, to ensure the building is constructed to conform to all current and applicable environmental standards, OP urges the applicant to work with DOEE on all environmental aspects of the building.

JS/sjm^{AICP}